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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

Michael Zeleny,

Plaintiff,

vs.

Edmund G. Brown, Jr., et al.,

Defendants.

Case No. 17-cv-07357-RS

**NEA'S SUPPLEMENTAL REQUEST FOR  
JUDICIAL NOTICE IN SUPPORT OF  
NEA'S REPLY ISO ITS MOTION TO  
DISMISS PLAINTIFF'S SECOND  
AMENDED COMPLAINT**

Date: November 14, 2019

Time: 1:30 p.m.

Courtroom: 3, 17th Floor

Pursuant to Federal Rule of Evidence 201, Defendant New Enterprise Associates, Inc. (“NEA”), requests that the Court take judicial notice of pleadings and court records in support of its reply in support of its motion to dismiss filed on October 25, 2019.

Federal Rule of Evidence 201 provides that, upon request, a court shall take judicial notice of facts that are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201. Examples of matters whose accuracy cannot reasonably be questioned are public records such as pleadings, orders and other papers on file in another action pending in court, or the legislative history of laws, rules or ordinances. *See Mack v. South Bay Beer Distributors, Inc.*, 798 F.2d 1279, 1282 (9th Cir. 1986), abrogated on other grounds by *Astoria Federal Sav. And Loan Ass’n Solimino*, 501 U.S. 104 (1991); *Rupert v. Bond*, 68 F.Supp.3d 1142 (N.D. 2014) (in connection with motion to dismiss, granting request for judicial notice of, *inter alia*, pleadings, declarations, and orders issued in other courts).

In ruling on a motion to dismiss for failure to state a claim, the court may judicially notice public records. *MGIC Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9th Cir. 1986) (holding that a court may take judicial notice of official records and reports without converting a Rule 12(b)(6) motion into a Rule 56 motion for summary judgment); *Shaw v. Hahn*, 56 F.3d 1128, 1129 n.1 (9th Cir. 2005). A court may also take notice of corporate disclosure documents that are publicly available. *Metzler Inv. GMBH v. Corinthian Colleges, Inc.*, 540 F.3d 1049, 1064 n. 7 (9th Cir. 2008).

For the foregoing reasons, Defendant NEA requests that the Court take judicial notice of the following documents offered in support of its Reply Memorandum in support of its Motion to Dismiss Plaintiff’s Section 1983 claim against NEA on the grounds, *inter alia*, that the *Noerr-Pennington* doctrine provides immunity for NEA’s actions. True and correct copies of these documents are attached to the declaration of Roger A. Lane filed concurrently herewith:

1. **Exhibit 1** – WebEx Communications, Inc.’s Notice and Proxy Statement, dated April 14, 2004,

NEA’s SUPPLEMENTAL REQUEST FOR JUDICIAL NOTICE  
Case No. 17-cv-07357-RS

1 available at [www.sec.gov](http://www.sec.gov).

- 2 2. **Exhibit 2** - WebEx Communications, Inc.'s Notice and Proxy Statement, dated April 15, 2002,  
3 available at [www.sec.gov](http://www.sec.gov).  
4 3. **Exhibit 3**- Order on Scott Sandell's Request for Orders to Stop Harassment from the Superior  
5 Court of California, County of San Mateo.  
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8 **FOLEY & LARDNER LLP**

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10  
11 October 25, 2019

/s Roger A. Lane

Roger A. Lane  
Courtney Worcester

13 Attorneys for New Enterprise Associates, Inc.  
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19 **PROOF OF SERVICE**

20 I hereby certify that on October 25, 2019, I electronically filed the foregoing document using the  
21 Court's CM/ECF system. I am informed and believe that the CM/ECF system will send a notice of  
22 electronic filing to the interested parties.

23 /s/ Roger A. Lane

24 Roger A. Lane  
25  
26

27 NEA's SUPPLEMENTAL REQUEST FOR JUDICIAL NOTICE  
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